

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

TONY F. DRAPER,

Plaintiff,

v.

KEITH SCHAFER, et al.,

Defendants.

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No. 4:09-CV-1378 CAS

MEMORANDUM AND ORDER

This matter is before the Court upon the motion of Tony Draper, an inmate at St. Louis Psychiatric Rehabilitation Center, for leave to commence this action without payment of the required filing fee. For the reasons stated below, the Court finds that plaintiff does not have sufficient funds to pay any portion of the filing fee. As a result, the Court will not assess an initial partial filing fee. See 28 U.S.C. § 1915(b)(4). Furthermore, based upon a review of the complaint, the Court finds that the complaint should be dismissed pursuant to 28 U.S.C. § 1915(e)(2)(B).

28 U.S.C. § 1915(e)

Pursuant to 28 U.S.C. § 1915(e)(2)(B), the Court must dismiss a complaint filed in forma pauperis if the action is frivolous, malicious, fails to state a claim upon which relief can be granted, or seeks monetary relief from a defendant who is immune from such relief. An action is frivolous if it “lacks an arguable basis in either law or fact.” Neitzke v. Williams, 490 U.S. 319, 328 (1989). An action is malicious if it is undertaken for the purpose of harassing the named defendants and not for the purpose of vindicating a cognizable right. Spencer v. Rhodes, 656 F. Supp. 458, 461-63 (E.D.N.C. 1987), aff’d 826 F.2d 1059 (4th Cir. 1987). An action fails to state a claim upon which

relief can be granted if it fails to state a plausible claim for relief. Ashcroft v. Iqbal, 129 S. Ct. 1937, 1950-51 (2009).

Discussion

Plaintiff brings this action under 42 U.S.C. § 1983 and federal criminal law. Defendants are several government actors who were involved in plaintiff's arrest and detention for possession of a controlled substance. Plaintiff is currently detained at the St. Louis Psychiatric Rehabilitation Center pending psychiatric evaluation.

Plaintiff brings this action under the premise that he is a "Sovereign American Civilian Flag" of the United States pursuant to 4 U.S.C. §§ 1-2 and the Uniform Commercial Code. Plaintiff claims that defendants, whom he calls "Foreign Agents," had no right to breach his sovereignty by arresting him, detaining him, or evaluating his mental health.

Plaintiff seeks immediate release from confinement; he further seeks to recover several million dollars to satisfy his "fee schedule."

The complaint is comprised of nothing more than meaningless, quasi-legalese gibberish. As such, it is legally frivolous, and the Court will dismiss this action pursuant to 28 U.S.C. § 1915(e).

Accordingly,

IT IS HEREBY ORDERED that plaintiff's motion to proceed in forma pauperis is **GRANTED**. [Doc. 2]

IT IS FURTHER ORDERED that the Clerk shall not issue process or cause process to issue upon the complaint because the complaint is legally frivolous or fails to state a claim upon which relief can be granted, or both.

An Order of Dismissal will accompany this Memorandum and Order.

A handwritten signature in cursive script, appearing to read "Charles A. Shaw", written in black ink.

CHARLES A. SHAW
UNITED STATES DISTRICT JUDGE

Dated this 24th day of September, 2009.